

Remarks

Preliminary Remarks

Claims 1-20 are pending in the application. The issues in the application are as follows:

- Claims 1-5, 8-12, and 15-18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application 6,275,853 to Beser et al. (hereinafter, "Beser") in view of U.S. Patent Application 6,336,175 to Shaath et al. (hereinafter, "Shaath")
- Claims 6-7, 13-14 and 19-20 have been objected to as being dependent upon a rejected based claim, but were deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, Applicant hereby traverses the outstanding rejections and requests reconsideration and withdrawal in light of the amendments and remarks contained herein.

Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1-5, 8-12, and 15-18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Beser in view of Shaath.

The Applicant respectfully disagrees that claims 1-5, 8-12, and 15-18 are obvious over Beser in view of Shaath as will be described in detail below.

As a starting point, MPEP 706.02(j) states:

"[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the cited references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure." (Emphasis added.)

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1 In the following arguments, the Applicant will focus in particular on independent
2 claims 1, 8 and 15 as the Applicant believes those claims to be allowable over Beser in
3 view of Shaath. It is axiomatic that any dependent claim which depends from an
4 allowable base claim is also allowable, and therefore the Applicant does not believe it is
5 necessary to present arguments in favor of each and every claim that depends from
6 claim 1, 8 and 15 respectively.

7
8 Claim 1

9 The Applicant contends that claim 1, and claims 2-5 that depend therefrom, are not
10 rendered obvious over Beser in view of Shaath. Claim 1 recites:

11
12 A method for transferring data between a local device and a remote
13 device over a network, said local device having a communication
14 architecture having at least an application layer and an interceptor layer,
15 said method comprising:

16 receiving by said interceptor layer a first command from said
17 application layer, said first command specifying a first plurality of identifiers
18 wherein said first command is configured to return an associated value for
19 each identifier of said plurality of identifiers; and

20 issuing a second command by said interceptor layer, said second
21 command specifying a second plurality of identifiers wherein said second
22 command is configured to return a next identifier and associated value for
23 each identifier of said another plurality of identifiers in response to said
24 receiving of said first command.

25 (Emphasis added).

26 The Office action states that Beser teaches "a method for transferring data
27 between a local device and a remote device over a network." The Office action also
28 states that Beser teaches that a "command specifies a plurality of identifiers" (Office
29 action, page 2). The Office action further admits that Beser "fails to teach local device

1 having a communication architecture having at least an application layer and an
2 interceptor layer.” The Office action claims that Shaath teaches limitations of claim 1
3 absent from Beser. However, Shaath does not cure the deficiencies of Beser.

4 Specifically, Shaath does not teach or suggest that a first command received to
5 an interceptor layer specifies “a first plurality of identifiers” or that the “first command is
6 configured to return an associated value for each identifier of said plurality of identifiers,”
7 as recited in Applicant’s claim 1. In fact, Shaath does not disclose any “identifiers” that
8 are associated with a request. Instead, Shaath discloses that an “application layer
9 communicates with the file system layer for performing read operations and write
10 operations with storage media,” and that “[e]ach file system access request that is
11 transmitted from the application layer to the [f]ile system layer is intercepted by the trap
12 layer” where “restrictions relating to access privileges are implemented. (Shaath, col 7,
13 lines 28-45.) Clearly, Shaath does not disclose a first command received to an
14 interceptor layer that specifies “a first plurality of identifiers”, or that the “first command is
15 configured to return an associated value for each identifier of said plurality of identifiers,”
16 as recited in Applicant’s claim 1.

17
18 Additionally, while Shaath discloses that “some requests are blocked and error
19 messages are returned to the application layer”, and “[o]ther requests are modified and
20 the modified request passed onto the file system,” Shaath does not disclose that a
21 second issued command “is configured to return a next identifier and associated value
22 for each identifier of said another plurality of identifiers in response to said receiving of
23 said first command,” as recited in Applicant’s claim 1. For example, Shaath cites that
24 “[w]hen a data store is read only, a request to open a file for read write access is
25 modified to an open file for read-only access; a request to delete a file is blocked and an
error message is returned.” (Shaath, col 7, lines 28-45.) Specifically, neither a “**next**”
identifier nor an “**associated value**” are disclosed by Shaath, as claimed by the Office

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1 action. Furthermore, as described in Applicant's specification, the purpose of a next
2 identifier is to **avoid** return of an error message (see, Specification, page 9. lines 6-9),
3 whereas the system described by Shaath *generates* an error message.

4 Accordingly, since Applicant's claim 1 includes limitations not disclosed by
5 Besser or Shaath, there can be no obviousness of Applicant's claim 1 in light of these
6 references.

7 Furthermore, as stated above, in order to maintain a rejection under 35 U.S.C. §
8 103(a), the cited art **must** teach or suggest **all** the claim limitations, and the teaching or
9 suggestion to make the claimed combination and the reasonable expectation of success
10 must both be found in the prior art and not based on applicant's disclosure. However, it
11 is evident that the references could only have been selected and combined to reject the
12 claims by using the impermissible hindsight knowledge learned from Applicant's
13 teachings. For example, to make up for the deficiencies in Besser, it appears that the
14 Examiner selected Shaath for its use of a "trap layer" even though the "trap layer"
15 described by Shaath does not function in the same way as an "interceptor layer" as
16 recited in Applicants' claim 1. Specifically, the "trap layer" of Shaath does not issue a
17 second command "specifying a second plurality of identifiers wherein said second
18 command is configured to return a **next** identifier and associated value for each
19 identifier," as recited in Applicant's claim 1. Clearly, Applicant's teachings were
20 impermissibly used to combine the references in an attempt to piece together Applicant's
21 claim 1.
22

23 As previously stated, in order to support a § 103(a) rejection, there must be some
24 teaching, suggestion, or motivation, other than Applicant's teachings, for modifying a
25 cited reference, or combining references, to achieve the claimed invention. The Office
action does not indicate any suggestion or motivation in the prior art of record, either
explicit or otherwise, for modifying the references, or combining the references, in a

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1 manner that would achieve the claimed invention. The Examiner has not pointed out
2 any teaching in the references as to how such a modification or combination might be
3 accomplished, or what might be accomplished by such a combination that is even
4 relevant to Applicant's claim 1.

5 Moreover, the Office action alleges that it would be obvious to one of ordinary
6 skill at the time the invention was made to combine the teaching of Shaath with the
7 invention of Beser "in order not to alter data stored." (Office Action, page 3,
8 paragraph 2.) However, it is clear from the Applicant's disclosure that the invention is
9 directed towards "improving the reliability of a block transfer of data from a server to a
10 client utilizing SNMP protocol objects" (page 1, lines 4-7), and has nothing to do with
11 preserving data. In fact, the portion of Shaath (col. 2, lines 10-20) cited in the Office
12 action to support the allegation that it would be obvious to one of skill in the art to
13 combine the references appears to be directed to a need that is met by the invention of
14 Shaath alone (i.e., preserving data when accessing the data). Furthermore, there is no
15 reason why one would combine the teachings of Shaath (directed towards "a method of
16 providing restricted access to a storage medium in communication with a computer" –
17 Shaath, claim 1 preamble) with the teachings of Beser (directed towards "a system for
18 managing a network" – Beser, claim 1 preamble), or visa-versa. Moreover, there is no
19 reason why anyone would apply the teachings of Shaath (for "a method of providing
20 restricted access to a storage medium in communication with a computer") to an
21 invention pertaining to "a method for transferring data between a local device and a
22 remote device over a network" (Applicant's claim 1 preamble). Accordingly, there is
23 simply no suggestion or motivation whatsoever (either in the references or to one of skill
24 in the art) to combine and/or modify the references to arrive at Applicant's claim 8.
25

Furthermore, even if the references were combinable, which they are not, the
result would not reach the Applicant's claim 1. A combination of Beser and Shaath

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1 would merely result in a method of restricting file access to a storage medium that is
2 implemented between a local device and a remote device over a network, which is not
3 what is claimed by the Applicant. In order to reach the limitations of Applicant's claim 1,
4 the references would require modification far beyond what is taught or suggested by
5 Beser or Shaath, or would be apparent to one of skill in the art at the time the invention
6 was made. The Applicant therefore strongly disagrees with the Examiner's contention
7 that it would be "obvious to one with ordinary skill in the art" to modify or combine the
8 references to arrive at Applicant's claim 1.

9 In light of the above, the rejection of claim 1 as being obvious over Beser in view
10 of Shaath is unsupportable, and the Applicant therefore requests that the rejection of
11 claim 1 be withdrawn. Since it is axiomatic that a claim which depends from an
12 allowable base claim cannot be obvious, the Applicant further requests that the rejection
13 of claims 2-5 (which depend from claim 1) also be withdrawn.

14
15 Claim 8

16 The Applicant contends that claim 8, and claims 9-12 that depend therefrom, are not
17 rendered obvious over Beser in view of Shaath. Claim 8 recites:

18 A system for improving reliability of data transfer, said system comprising:

19 an interface;
20 at least one processor;
21 a memory coupled to said at least one processor;
22 an interceptor client residing in said memory and executed by said at
23 least one processor, wherein said interceptor client is configured to receive
24 by said interceptor layer a first command from said application layer, said
25 first command specifying a first plurality of identifiers wherein said first
command is configured to return an associated value for each identifier of
said plurality of identifiers, and to issue a second command by said
interceptor layer, said second command specifying a second plurality of
identifiers wherein said second command is configured to return a *next*

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1 identifier and associated value for each identifier of said another plurality of
2 identifiers in response to said receiving of said first command.
3 (Emphasis Added).

4 The Office action states that Beser teaches “a method for transferring data
5 between a local device and a remote device over a network.” The Office action also
6 states that Beser teaches that a “command specifies a plurality of identifiers” (Office
7 action, page 2). The Office action further admits that Beser “fails to teach local device
8 having a communication architecture having at least an application layer and an
9 interceptor layer.” The Office action claims that Shaath teaches limitations of claim 8
10 absent from Beser. However, Shaath, as described above does not cure the
11 deficiencies of Beser.

12 Specifically, as described above, Shaath does not teach or suggest that a first
13 command received to an interceptor layer specifies “a first plurality of identifiers”, or that
14 the “first command is configured to return an associated value for each identifier of said
15 plurality of identifiers,” as recited in Applicant’s claim 8. In fact, Shaath does not disclose
16 any “identifiers” that are associated with a request. Instead, Shaath discloses that an
17 “application layer communicates with the file system layer for performing read operations
18 and write operations with storage media,” and that “[e]ach file system access request
19 that is transmitted from the application layer to the [f]ile system layer is intercepted by
20 the trap layer” where “restrictions relating to access privileges are implemented.
21 (Shaath, col 7, lines 28-45.) Shaath does not disclose a first command received to an
22 interceptor layer that specifies “a first plurality of identifiers”, or that the “first command is
23 configured to return an associated value for each identifier of said plurality of identifiers,”
24 as recited in Applicant’s claim 8. In fact, Shaath does not disclose any “identifiers” that
25 are associated with a request. Instead, Shaath discloses that an “application layer
 communicates with the file system layer for performing read operations and write

1 operations with storage media,” and that “[e]ach file system access request that is
2 transmitted from the application layer to the [f]ile system layer is intercepted by the trap
3 layer” where “restrictions relating to access privileges are implemented. (Shaath, col 7,
4 lines 28-45.) Clearly, Shaath does not disclose a first command received to an
5 interceptor layer that specifies “a first plurality of identifiers”, or that the “first command is
6 configured to return an associated value for each identifier of said plurality of identifiers,”
7 as recited in Applicant’s claim 8.

8 Additionally, while Shaath discloses that “some requests are blocked and error
9 messages are returned to the application layer”, and “[o]ther requests are modified and
10 the modified request passed onto the file system,” Shaath does not disclose that a
11 second issued command “is configured to return a next identifier and associated value
12 for each identifier of said another plurality of identifiers in response to said receiving of
13 said first command,” as recited in Applicant’s claim 8. For example, Shaath states that
14 “[w]hen a data store is read only, a request to open a file for read write access is
15 modified to an open file for read-only access; a request to delete a file is blocked and an
16 error message is returned.” (Shaath, col 7, lines 28-45.) Specifically, neither a “**next**”
17 identifier, nor an “**associated value**”, are disclosed by Shaath. Furthermore, as
18 described in Applicant’s specification, the purpose of a next identifier is to **avoid** return
19 of an error message (see, Specification, page 9. lines 6-9), whereas the system
20 described by Shaath *generates* an error message.

22 Accordingly, since Applicant’s claim 8 includes limitations not disclosed by
23 Besser or Shaath, there can be no obviousness of Applicant’s claim 8 in light of these
24 references.

25 As stated above, in order to maintain a rejection under 35 U.S.C. § 103(a), the
cited art **must** teach or suggest **all** the claim limitations, and the teaching or suggestion
to make the claimed combination and the reasonable expectation of success must both

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1 be found in the prior art and not based on applicant's disclosure. However, it is evident
2 that the references could only have been selected and combined to reject the claims by
3 using the impermissible hindsight knowledge learned from Applicant's teachings. For
4 example, to make up for the deficiencies in Beser, it appears that the Examiner selected
5 Shaath for its use of a "trap layer" even though the "trap layer" described by Shaath does
6 not function in the same way as an "interceptor layer" as recited in Applicants' claim 8.
7 Specifically, the "trap layer" of Shaath does not issue a second command "specifying a
8 second plurality of identifiers wherein said second command is configured to return a
9 **next** identifier and associated value for each identifier," as recited in Applicant's claim 8.
10 Clearly, Applicants' teachings were impermissibly used to combine the references in an
11 attempt to piece together Applicants' claim 8.

12 As previously stated, in order to support a § 103(a) rejection, there must be some
13 teaching, suggestion, or motivation, other than Applicant's teachings, for modifying a
14 cited reference, or combining references, to achieve the claimed invention. The Office
15 action does not indicate any valid suggestion or motivation in the prior art of record,
16 either explicit or otherwise, for modifying the references or combining the references in a
17 manner that would achieve the claimed invention, or point out any teaching as to how
18 such a modification or combination might be accomplished, or what might be
19 accomplished by such a combination, that is relevant to Applicant's claim 8.

20 The Examiner alleges that it would be obvious to one of ordinary skill at the time
21 the invention was made to combine the teaching of Shaath with the invention of Beser
22 "in order not to alter data stored" (Office action, page 3, paragraph 2). However, the
23 Applicant contends that this alleged motivation for combining the references is
24 completely immaterial, since the claimed invention has nothing to do with "not []
25 alter[ing] data stored." In fact, the portion of Shaath cited by the Office action to support
such an allegation (col. 2, lines 10-20) appears to be directed to a need that is met by

1 the invention of Shaath alone. As to any motivation to modify Beser with the teachings
2 of Shaath (or visa versa) relative to Applicant's claim 8, claim 8 is directed towards "a
3 system for improving reliability of data transfer". Beser provides for "a system for
4 managing a network" (Beser, claim 1); Shaath provides for "a method of providing
5 restricted access to a storage medium in communication with a computer". There is
6 simply no reason why one would modify Beser's "system for managing a network" with
7 Shaath's teachings for "providing restricted access to a storage medium in
8 communication with a computer", or visa-versa. Moreover, there is no reason why
9 anyone would apply the teachings of Shaath (for "a method of providing restricted
10 access to a storage medium in communication with a computer") to an invention
11 pertaining to "a system for improving reliability of data transfer" (Applicant's claim 8
12 preamble). Accordingly, there is simply no suggestion or motivation whatsoever (either
13 in the references or to one of skill in the art) to combine and/or modify the references to
14 arrive at Applicant's claim 8.

15 Furthermore, even if the references were combinable, which they are not, the
16 result would not reach the Applicant's claim 8. A combination of Beser and Shaath
17 would merely result in a method of restricting file access to a storage medium that is
18 implemented between a local device and a remote device over a network, which is not
19 what is taught or claimed by Applicant's claim 8. In order to reach the limitations of
20 Applicant's claim 8, the references would require modification far beyond what is taught
21 or suggested by Beser or Shaath. The Applicant therefore strongly disagrees with the
22 Examiner's contention that it would be "obvious to one with ordinary skill in the art" to
23 modify or combine the references to arrive at Applicant's claim 8.

24 In light of the above, the rejection of claim 8 as being obvious over Beser in view
25 of Shaath is unsupportable, and the Applicant therefore requests that the rejection of
claim 8 be withdrawn. Since it is axiomatic that a claim which depends from an

allowable base claim cannot be obvious, the Applicant further requests that the rejection of claims 9-12 (which depend from claim 8) also be withdrawn.

Claim 15

The Applicant contends that claim 15, and claims 16-18 that depend therefrom, are not rendered obvious over Beser in view of Shaath. Claim 15 recites:

A computer readable storage medium on which is embedded one or more computer programs, said one or more computer programs implementing a method for improving reliability of data transfer, said one or more computer programs comprising a set of instructions for:

receiving by said interceptor layer a first command from said application layer, said first command specifying a first plurality of identifiers wherein said first command is configured to return an associated value for each identifier of said plurality of identifiers; and

issuing a second command by said interceptor layer, said second command specifying a second plurality of identifiers wherein said second command is configured to return a next identifier and associated value for each identifier of said another plurality of identifiers in response to said receiving of said first command.

As discussed above with reference to claim 1, The Office action states that Beser teaches "a method for transferring data between a local device and a remote device over a network." The Office action also states that Beser teaches that a "command specifies a plurality of identifiers" (Office action, page 2). The Office action further admits that Beser "fails to teach local device having a communication architecture having at least an application layer and an interceptor layer." The Office action claims that Shaath teaches limitations of claim 15 absent from Beser. However, Shaath does not cure the deficiencies of Beser.

1 Specifically, Shaath does not teach or suggest that a first command received to
2 an interceptor layer specifies “a first plurality of identifiers”, or that the “first command is
3 configured to return an associated value for each identifier of said plurality of identifiers,”
4 as recited in Applicant’s claim 15. In fact, Shaath does not disclose any “identifiers” that
5 are associated with a request. Instead, Shaath discloses that an “application layer
6 communicates with the file system layer for performing read operations and write
7 operations with storage media,” and that “[e]ach file system access request that is
8 transmitted from the application layer to the [f]ile system layer is intercepted by the trap
9 layer” where “restrictions relating to access privileges are implemented. (Shaath, col 7,
10 lines 28-45.) Clearly, Shaath does not disclose a first command received to an
11 interceptor layer that specifies “a first plurality of identifiers”, or that the “first command is
12 configured to return an associated value for each identifier of said plurality of identifiers,”
13 as recited in Applicant’s claim 15.

14 Additionally, while Shaath discloses that “some requests are blocked and error
15 messages are returned to the application layer”, and “[o]ther requests are modified and
16 the modified request passed onto the file system,” Shaath does not disclose that a
17 second issued command “is configured to return a next identifier and associated value
18 for each identifier of said another plurality of identifiers in response to said receiving of
19 said first command,” as recited in Applicant’s claim 15. For example, Shaath cites that
20 “[w]hen a data store is read only, a request to open a file for read write access is
21 modified to an open file for read-only access; a request to delete a file is blocked and an
22 error message is returned.” (Shaath, col 7, lines 28-45.) Specifically, neither a “**next**”
23 identifier nor an “**associated value**” are disclosed by Shaath, as claimed by the Office
24 action. Furthermore, as described in Applicant’s specification, the purpose of a next
25 identifier is to **avoid** return of an error message (see, Specification, page 9. lines 6-9),
whereas the system described by Shaath *generates* an error message.

1 Accordingly, since Applicant's claim 15 includes limitations not disclosed by
2 Beser or Shaath, there can be no obviousness of Applicant's claim 15 in light of these
3 references.

4 As stated above, in order to maintain a rejection under 35 U.S.C. § 103(a), the
5 cited art **must** teach or suggest **all** the claim limitations, **and** the teaching or suggestion
6 to make the claimed combination and the reasonable expectation of success must both
7 be found in the prior art and not based on applicant's disclosure. However, it is evident
8 that the references could only have been selected and combined to reject the claims by
9 using the impermissible hindsight knowledge learned from Applicant's teachings. For
10 example, to make up for the deficiencies in Beser, it appears that the Examiner selected
11 Shaath for its use of a "trap layer" even though the "trap layer" described by Shaath does
12 not function in the same way as an "interceptor layer" as recited in Applicants' claim 15.
13 Specifically, the "trap layer" of Shaath does not issue a second command "specifying a
14 second plurality of identifiers wherein said second command is configured to return a
15 **next** identifier and associated value for each identifier," as recited in Applicant's
16 claim 15. Clearly, Applicant's teachings were impermissibly used to combine the
17 references in an attempt to piece together Applicant's claim 15.
18

19 As previously stated, in order to support a § 103(a) rejection, there must be some
20 teaching, suggestion, or motivation, other than Applicant's teachings, for modifying a
21 cited reference, or combining references, to achieve the claimed invention. The Office
22 action does not indicate any suggestion or motivation in the prior art of record, either
23 explicit or otherwise, for modifying the references or combining the references in a
24 manner that would achieve the claimed invention, or point out any teaching as to how
25 such a modification or combination might be accomplished, or what might be
accomplished by such a combination that is even relevant to Applicant's claim 15.

1 The Examiner alleges that it would be obvious to one of ordinary skill at the time
2 the invention was made to combine the teaching of Shaath with the invention of Beser
3 “in order not to alter data stored” (Office action, page 3, paragraph 2). However, the
4 Applicant contends that this alleged motivation for combining the references is
5 completely immaterial, since the claimed invention has nothing to do with “not []
6 alter[ing] data stored.” In fact, the portion of Shaath cited by the Office action to support
7 such an allegation (col. 2, lines 10-20) appears to be directed to a need that is met by
8 the invention of Shaath alone. As to any motivation to modify Beser with the teachings
9 of Shaath (or visa versa) relative to Applicant’s claim 15, claim 15 is directed towards
10 “computer programs implementing a method for improving reliability of data transfer”.
11 Beser provides for “a system for managing a network” (Besser, claim 1); Shaath
12 provides for “a method of providing restricted access to a storage medium in
13 communication with a computer”. There is simply no reason why one would modify
14 Beser’s “system for managing a network” with Shaath’s teachings for “providing
15 restricted access to a storage medium in communication with a computer” (or visa-
16 versa). Moreover, there is no reason why anyone would apply the teachings of Shaath
17 (for “a method of providing restricted access to a storage medium in communication with
18 a computer”) to an invention pertaining to “computer programs implementing a method
19 for improving reliability of data transfer” (Applicant’s claim 15 preamble). Accordingly,
20 there is no suggestion or motivation whatsoever to combine and/or modify the
21 references to arrive at Applicant’s claim 15.
22

23 Furthermore, even if the references were combinable, which they are not, the
24 result would not reach the Applicant’s claim 15. A combination of Beser and Shaath
25 would merely result in a method of restricting file access to a storage medium that is
implemented between a local device and a remote device over a network, which is not
what is taught or claimed by Applicant’s claim 15.

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1 In light of the above, the rejection of claim 15 as being obvious over Beser in view
2 of Shaath is unsupportable, and the Applicant therefore requests that the rejection of
3 claim 15 be withdrawn. Since it is axiomatic that a claim which depends from an
4 allowable base claim cannot be obvious, the Applicant further requests that the rejection
5 of claims 16-18 (which depend from claim 15) also be withdrawn.
6

7 Summary

8 The Applicant believes that this response constitutes a full and complete
9 response to the Office action, and therefore requests timely allowance of claims 1
10 through 20.

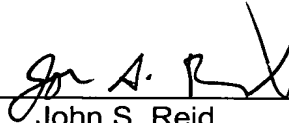
11 The Examiner is respectfully requested to contact the below-signed
12 representative if the Examiner believes this will facilitate prosecution toward allowance of
13 the claims.

14 Respectfully submitted,

15 Ernest F. Covelli

16
17 Date: October 29, 2004

By



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